ESTTA Tracking number: **ESTTA700118**
Filing date: **10/05/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217589
Party	Defendant J & N Sales, LLC
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Date	10/05/2015
Attachments	Clarification response.pdf(41682 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

RHYTHM HOLDING LIMITED, Opposer, v. J & N SALES, LLC, Applicant.	)	Opposition No. 91-217589 In the Matter of: Application No. 86/050,581 Mark: RHYTHM IN BLUES Attorney Ref. 256.612

APPLICANT'S RESPONSE TO OPPOSER'S REQUEST FOR CLARIFICATION OF ORDER

Opposer seeks clarification of the statement in the Board's October 2, 2015 standard order, suspending proceedings in this opposition pending consideration of applicant's motion for reconsideration, that "[n]either the filing of the request for reconsideration nor this suspension order tolls the time for parties to respond to any outstanding discovery requests which had been served prior to the filing of the request for reconsideration."

The authority cited by opposer, *3PMC, LLC v. Huggins*, 115 USPQ2d 1488 (TTAB 2015), appears to support a position that opposer's discovery and applicant's motion were filed at the same time and, therefore, that opposer's discovery had not been served prior to the filing of applicant's request for reconsideration and need not be answered during the suspension.

Opposer, however, in its request, seeks clarification of something the Board did not say, *viz*., whether the request for reconsideration was filed "after" service of an outstanding discovery request. The Board's order clearly states that the time for responding to outstanding discovery that had been served prior to the filing of the request for reconsideration is not tolled and, therefore, that the time to respond to discovery served on the same day as or after the filing of the request is tolled. TBMP 510.03(a).

Respectfully submitted,

New York, New York
October 5, 2015

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Certificate of Service

I hereby certify that, on October 5, 2015, a copy of the foregoing response was served upon opposer's counsel of record by first class mail, postage prepaid, in an envelope addressed to:

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